



April 10, 2009

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# ENGROSSED

## SENATE BILL No. 420

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DIGEST OF SB 420 (Updated April 8, 2009 9:34 am - DI 103)

**Citations Affected:** IC 8-1.

**Synopsis:** Renewable energy. Requires the utility regulatory commission (IURC) to consider in the rate base of a public utility that complies with certain renewable energy standards (RES) one-half of any capital expenditures made by the public utility to extend gas or electric service to a customer that produces biofuels. Requires the IURC to provide certain financial incentives for implementing electric line facilities projects to electricity suppliers that comply with a certain RES. Requires electricity suppliers to comply with an RES by specified dates. Provides that an electricity supplier that does not comply with a higher RES is not eligible for certain financial incentives related to renewable energy development. Makes technical changes.

**Effective:** Upon passage; July 1, 2009.

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**Hershman, Stutzman, Young R,  
Errington, Kruse**

(HOUSE SPONSORS — GRUBB, BORROR, KOCH, BATTLES)

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January 12, 2009, read first time and referred to Committee on Rules and Legislative Procedure.

February 16, 2009, amended; reassigned to Committee on Utilities and Technology.

February 19, 2009, amended, reported favorably — Do Pass.

February 23, 2009, read second time, amended, ordered engrossed.

February 24, 2009, engrossed. Read third time, passed. Yeas 42, nays 7. Title amendment.

February 25, 2009, engrossed.

**HOUSE ACTION**

March 3, 2009, read first time and referred to Committee on Commerce, Energy, Technology and Utilities.

April 9, 2009, amended, reported — Do Pass.

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ES 420—LS 7409/DI 13+



April 10, 2009

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

## ENGROSSED SENATE BILL No. 420

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A BILL FOR AN ACT to amend the Indiana Code concerning state energy policy.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 8-1-2-23.1 IS ADDED TO THE INDIANA CODE  
2 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
3 1, 2009]: **Sec. 23.1. (a) As used in this section, "biofuels project"**  
4 **means an addition to or the construction, extension, or**  
5 **improvement of a public utility's plant or equipment to provide**  
6 **electric or gas service to a customer that produces biodiesel,**  
7 **ethanol, or any other biofuel.**  
8 **(b) This section applies to a public utility that complies with the**  
9 **schedule set forth in IC 8-1-37-5(b) and enters into an agreement**  
10 **described in subsection (e).**  
11 **(c) For purposes of section 23 of this chapter, a biofuels project**  
12 **is in fact used and useful in the public service.**  
13 **(d) This subsection applies to a public utility's general rate**  
14 **proceeding that immediately follows the public utility's investment**  
15 **in a biofuels project. A public utility may accrue for recovery in the**  
16 **rate proceeding depreciation and a return, not to exceed a total of**  
17 **ten million dollars (\$10,000,000), on the public utility's investment,**

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as allocated to the public utility under an agreement described in subsection (e), at the rate of return authorized by the commission in the public utility's general rate proceeding immediately preceding the investment. The accrual of a return by a public utility under this subsection:

(1) begins on the date the public utility initially records the investment in the public utility's books or records, as determined by the commission; and

(2) ends on the earlier of the following dates:

(A) The date on which the public utility accrues the full return determined under this subsection.

(B) The date rates are placed in effect after a general rate proceeding that recognizes an investment by a public utility in the public utility's rate base.

(e) To be eligible for a cost recovery under this section, a public utility shall enter into an agreement with the customer that is the beneficiary of electric or gas service provided under a biofuels project. The agreement must allocate the cost of the biofuels project as follows:

(1) Fifty percent (50%) to the public utility.

(2) Fifty percent (50%) to the customer.

(f) Notwithstanding subsection (d), the commission shall revoke a cost recovery approved under this chapter for an electricity supplier that the commission determines has:

(1) elected to; and

(2) failed to;

comply with the schedule set forth in IC 8-1-37-5(b).

(g) This section expires December 31, 2020, unless reauthorized by the general assembly before December 31, 2020.

SECTION 2. IC 8-1-8.2 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

#### **Chapter 8.2. Electric Line Facilities Projects**

**Sec. 1.** As used in this chapter, "commission" refers to the Indiana utility regulatory commission created by IC 8-1-1-2.

**Sec. 2.** As used in this chapter, "electric line facilities" means the following:

(1) Overhead or underground electric transmission lines.

(2) Overhead or underground electric distribution lines.

(3) Electric substations.

**Sec. 3.** As used in this chapter, "electric line facilities project" means an addition to or the construction, operation, maintenance,

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1 reconstruction, relocation, upgrading, or removal of electric line  
2 facilities. The term includes an electric line facilities project that  
3 provides electric service to a customer that generates electricity  
4 from renewable energy resources.

5 Sec. 4. As used in this chapter, "electricity supplier" means a  
6 public utility that furnishes retail electric service to the public.

7 Sec. 5. As used in this chapter, "public utility" has the meaning  
8 set forth in IC 8-1-2-1.

9 Sec. 6. As used in this chapter, "regional transmission  
10 organization" refers to the regional transmission organization  
11 approved by the Federal Energy Regulatory Commission for the  
12 control area in which an electricity supplier operates electric line  
13 facilities.

14 Sec. 7. As used in this chapter, "renewable energy resources"  
15 has the meaning set forth in IC 8-1-37-4.

16 Sec. 8. This chapter applies to an electricity supplier that  
17 complies with the schedule set forth in IC 8-1-37-5(b).

18 Sec. 9. (a) The commission shall encourage electric line facilities  
19 projects by creating the following financial incentives for electric  
20 line facilities that are reasonable and necessary:

21 (1) The timely recovery of reasonable and necessary costs, by  
22 means of a periodic rate adjustment mechanism, incurred by  
23 an electricity supplier that are allocated to Indiana retail  
24 customers in proportion to the retail electric service directly  
25 provided to Indiana retail customers in connection with an  
26 electric line facilities project that transmits or distributes  
27 electricity generated by a customer from renewable energy  
28 resources.

29 (2) The timely recovery of reasonable and necessary costs, by  
30 means of a periodic rate adjustment mechanism, incurred by  
31 an electricity supplier taking service under a tariff of, or being  
32 assessed costs by the:

33 (A) regional transmission organization; or

34 (B) Federal Energy Regulatory Commission.

35 The commission may require an electricity supplier that seeks to  
36 receive a financial incentive described in subdivision (1) to enter  
37 into an agreement with the customer that is the beneficiary of  
38 electric service provided by the electric line facilities project. The  
39 agreement must allocate the cost of the electric line facilities  
40 project equally between the electricity supplier and the customer.

41 (b) The commission shall determine a reasonable schedule  
42 under which an electricity supplier may recover costs under this

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1 section. In making a determination under this subsection, the  
 2 commission shall consider the impact of the cost recovery on  
 3 ratepayers of the electricity supplier.

4 Sec. 10. (a) Subject to subsection (g), an electricity supplier must  
 5 submit an application to the commission for approval of an electric  
 6 line facilities project for which the electricity supplier seeks to  
 7 receive a financial incentive created under section 9 of this chapter.

8 (b) The commission shall prescribe the form for an application  
 9 submitted under this section.

10 (c) Upon receipt of an application under subsection (a), the  
 11 commission shall review the application for completeness. The  
 12 commission may request additional information from an applicant  
 13 as needed. The commission may not review an application  
 14 submitted after December 31, 2020, unless authorized to do so by  
 15 the general assembly before January 1, 2021.

16 (d) The commission, after notice and hearing, shall issue a  
 17 determination of an electric line facilities project's eligibility for  
 18 the financial incentives described in section 9 of this chapter not  
 19 later than one hundred eighty (180) days after the date of the  
 20 application. A determination under this subsection must include a  
 21 finding that the applicant electricity supplier is in compliance with  
 22 the schedule set forth in IC 8-1-37-5(b).

23 (e) Subject to subsection (g), the commission shall approve an  
 24 application by an electricity supplier for an electric line facilities  
 25 project that is reasonable and necessary. An electric line facilities  
 26 project is presumed to be reasonable and necessary if the electric  
 27 line facilities project:

28 (1) is consistent with, or part of, a plan developed by the:

29 (A) regional transmission organization; or

30 (B) Federal Energy Regulatory Commission; or

31 (2) transmits or distributes electricity generated from  
 32 renewable energy resources.

33 However, an electricity supplier may seek approval from the  
 34 commission at the electricity supplier's next general rate  
 35 proceeding to include in the electricity supplier's basic rates the  
 36 recoverable costs sought in an application approved under this  
 37 subsection.

38 (f) This section does not relieve an electricity supplier of the  
 39 duty to obtain any certificate required under IC 8-1-8.5 or  
 40 IC 8-1-8.7.

41 (g) The commission may not approve a financial incentive under  
 42 section 9 of this chapter for a particular electricity supplier if the

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commission has approved a financial incentive under section 9 of this chapter in the preceding twelve (12) months for that electricity supplier, unless the commission determines that approving a particular financial incentive for an electricity supplier on a more timely basis will benefit the electricity supplier's ratepayers.

(h) A financial incentive that the commission approves before January 1, 2021, or that an electricity supplier applies for before January 1, 2021, and that is subsequently approved, expires on the earlier of the following dates:

(1) The date on which the electricity supplier accrues the full recovery amount authorized by the commission.

(2) The date specified by the commission in its approval of the financial incentive.

**Sec. 11. The commission shall revoke all financial incentives approved under this chapter for an electricity supplier that the commission determines has:**

(1) elected to; and

(2) failed to;

**comply with the schedule set forth in IC 8-1-37-5(b).**

**SECTION 3. IC 8-1-37 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:**

**Chapter 37. Renewable Energy Development**

**Sec. 1. (a) As used in this chapter, "electricity supplier" means a public utility (as defined in IC 8-1-2-1) that furnishes retail electric service to the public.**

**(b) The term does not include a utility that is a:**

(1) municipally owned utility (as defined in IC 8-1-2-1(h));

(2) corporation organized under IC 8-1-13; or

(3) corporation organized under IC 23-17 that is an electric cooperative and that has at least one (1) member that is a corporation organized under IC 8-1-13.

**Sec. 2. As used in this chapter, "regional transmission organization" has the meaning set forth in IC 8-1-8.2-6.**

**Sec. 3. (a) As used in this chapter, "renewable energy credit", or "REC", means a tradable compliance instrument that is:**

(1) associated with one (1) megawatt hour of electricity generated from a renewable energy resource described in section 4(a) of this chapter; and

(2) tracked in an electronic tracking system approved by the commission.

**(b) The term does not include an instrument or the associated**

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electricity that is:

- (1) retired; or
- (2) otherwise claimed for purposes of complying with any voluntary contract or renewable energy requirement in another jurisdiction.

Sec. 4. (a) As used in this chapter, "renewable energy resources" includes the following sources or processes:

- (1) Methane systems that convert waste products, including animal, food, and plant waste, into electricity.
- (2) Methane recovered from landfills.
- (3) Wind, including wind energy battery storage systems.
- (4) Solar photovoltaic cells and panels.
- (5) Clean coal technology.
- (6) Dedicated crops grown for energy production. An invasive species of plant (as defined by Indiana law) does not qualify as a crop under this subdivision.
- (7) Energy from waste to energy facilities.
- (8) An electric generating facility that uses any of the sources or processes described in subdivisions (1) through (7).
- (9) Hydropower that is:

(A) initially derived after June 30, 2009; and

(B) from dams in existence on July 1, 2009.

(b) Except as provided in subsection (a)(7), the term does not include energy from the incineration, burning, or heating of the following:

- (1) Garbage.
- (2) General household, institutional, or commercial waste.
- (3) Industrial lunchroom or office waste.
- (4) Landscape waste.
- (5) Construction or demolition debris.
- (6) Feedstock that is municipal, food, plant, industrial, or animal waste from outside Indiana.

Sec. 5. (a) Each electricity supplier shall supply electricity under a schedule set forth in either subsection (b) or (c).

(b) In order to qualify for a financial incentive under IC 8-1-2-23.1, IC 8-1-8.2-9, or section 9 of this chapter, an electricity supplier shall supply electricity that is generated from renewable energy resources described in section 4(a) of this chapter to Indiana customers as a percentage of the total electricity supplied by the electricity supplier to Indiana customers during a calendar year as follows:

- (1) Not later than the calendar year ending December 31,

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2010, at least three percent (3%).

(2) Not later than the calendar year ending December 31, 2012, at least four and two-tenths percent (4.2%).

(3) Not later than the calendar year ending December 31, 2015, at least six percent (6%).

(4) Not later than the calendar year ending December 31, 2020, at least ten percent (10%).

(5) Not later than the calendar year ending December 31, 2025, at least fifteen percent (15%).

For purposes of this subsection, electricity is measured in megawatt hours.

(c) An electricity supplier that elects not to comply with subsection (b) shall supply electricity that is generated from renewable energy resources described in section 4(a) of this chapter to Indiana customers as a percentage of the total electricity supplied by the electricity supplier to Indiana customers during a calendar year as follows:

(1) Not later than the calendar year ending December 31, 2010, at least one and five-tenths percent (1.5%).

(2) Not later than the calendar year ending December 31, 2015, at least four percent (4%).

(3) Not later than the calendar year ending December 31, 2020, at least seven percent (7%).

(4) Not later than the calendar year ending December 31, 2025, at least ten percent (10%).

For purposes of this subsection, electricity is measured in megawatt hours.

(d) An electricity supplier complies with subsection (b) or (c) by demonstrating to the commission that an equivalent volume of RECs has been retired in an eligible electronic tracking system.

(e) An electricity supplier may not use a renewable energy resource described in section 4(a)(5) of this chapter to generate more than twenty-five percent (25%) of the electricity that the electricity supplier is required to supply under subsection (b) or (c), as applicable.

(f) If an electricity supplier exceeds the applicable percentage under subsection (b) or (c) in a compliance year, the electricity supplier may carry forward the amount of electricity that:

(1) exceeds the applicable percentage under subsection (a); and

(2) is generated from renewable energy resources in an Indiana facility;

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to comply with the requirement under subsection (b) or (c) for either or both of the two (2) immediately succeeding compliance years.

Sec. 6. (a) An electricity supplier that elects to, and fails to, comply with the schedule set forth in section 5(b) of this chapter is no longer eligible for financial incentives as provided in IC 8-1-2-23.1(d), IC 8-1-8.2-11, or section 9(c) of this chapter, as applicable.

(b) An electricity supplier described in subsection (a) shall comply with the schedule set forth in section 5(c) of this chapter beginning in the compliance year in which the electricity supplier fails to comply with the schedule set forth in section 5(b) of this chapter.

Sec. 7. (a) This section applies to an electricity supplier that is required to, and fails to, comply with the schedule set forth in section 5(c) of this chapter.

(b) Beginning January 1, 2011, and annually thereafter, the commission shall determine whether an electricity supplier is in compliance with the schedule set forth in section 5(c) of this chapter. The commission shall make a determination under this subsection not later than March 1 of each year.

(c) If the commission determines that an electricity supplier is not in compliance with the schedule, the commission shall impose a reasonable monetary penalty in an amount equal to the product of:

- (1) the number of megawatt hours of electricity that the electricity supplier was required to, but failed to, supply under section 5(c) of this chapter; multiplied by
- (2) twenty-five dollars (\$25).

In determining the amount of the monetary penalty, the commission shall consider the efforts made by the electricity supplier in attempting to comply with the schedule.

(d) If the commission determines not later than December 31 of a year that an electricity supplier against whom a monetary penalty was imposed under subsection (c) has achieved compliance with the schedule the commission may refund all or part of the monetary penalty imposed on the electricity supplier for that calendar year.

Sec. 8. (a) An electricity supplier is not required to timely comply with section 5(b) or 5(c) of this chapter, as applicable, if the commission determines that the electricity supplier has demonstrated that the cost of compliance with section 5(b) or 5(c)

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of this chapter, as applicable, using the renewable energy resources available to the electricity supplier would result in an unreasonable increase in the basic rates and charges for electricity supplied to customers of the electricity supplier. The commission shall conduct a public hearing to make a determination under this section.

(b) If the commission determines under a hearing conducted under subsection (a) that the cost of compliance with section 5(b) or 5(c) of this chapter, as applicable, would result in an unreasonable rate increase, the commission shall extend the applicable deadline imposed under section 5(b) or 5(c) of this chapter. If the commission extends a deadline under this subsection, the commission shall consider whether subsequent deadlines imposed under section 5(b) or 5(c) of this chapter, as applicable, also should be extended.

Sec. 9. (a) The commission shall allow an electricity supplier that complies with the schedule set forth in section 5(b) or 5(c) of this chapter to recover reasonable and necessary costs incurred in:

- (1) constructing, operating, or maintaining facilities to comply with this chapter;
- (2) generating electricity from, or purchasing electricity generated from, a renewable energy resource;
- (3) purchasing RECs, but not the associated power, produced from a renewable energy resource; or
- (4) complying with federal renewable energy resource portfolio requirements;

by a periodic rate adjustment mechanism.

(b) Except as provided in subsection (c), the recovery of costs by a periodic rate adjustment mechanism under subsection (a) expires on the earlier of the following dates:

- (1) The date on which the electricity supplier recovers under the period rate adjustment mechanism all costs allowed under subsection (a).
- (2) December 31, 2016.

(c) The commission shall revoke a periodic rate adjustment mechanism allowed under subsection (a) for an electricity supplier that the commission determines:

- (1) is required to; and
- (2) has failed to;

comply with section 5(b) or 5(c) of this chapter.

Sec. 10. (a) For purposes of calculating RECs to determine an electricity supplier's compliance with section 5(b) or 5(c) of this chapter, as applicable, the following apply:

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(1) Except as provided in subdivision (2), one (1) megawatt hour of electricity generated from renewable energy resources in an Indiana facility equals one (1) REC.

(2) One (1) megawatt hour of electricity generated from a renewable energy resource described in section 4(a)(1) of this chapter that originates in Indiana equals two (2) RECs.

(3) One (1) megawatt hour of electricity that is:

(A) generated from a renewable energy resource that is directly interconnected to a regional transmission organization whose members include an electricity supplier; and

(B) imported into Indiana; equals five-tenths (0.5) REC.

(b) Electricity generated by any source outside the territory of a regional transmission organization may not be considered for purposes of calculating an REC to determine an electricity supplier's compliance with section 5(b) or 5(c) of this chapter, as applicable.

(c) An electricity supplier may not apportion all or part of a single megawatt of electricity among more than one (1):

(1) renewable energy resource; or

(2) category set forth in subsection (a);

in order to comply with section 5(b) or 5(c) of this chapter, as applicable.

Sec. 11. The Indiana economic development corporation, in consultation with the commission, shall develop a strategy to attract renewable energy component manufacturing and assembly facilities to Indiana.

Sec. 12. Beginning in 2016, not later than March 1 of each year, an electricity supplier shall file with the commission a report of the electricity supplier's compliance with this chapter for the preceding calendar year.

Sec. 13. The commission shall adopt rules under IC 4-22-2 to implement this chapter. A rule adopted under this section may establish a procedure by which an electricity supplier that initially elects to comply with the schedule set forth in section 5(c) of this chapter may later comply with the schedule set forth in section 5(b) of this chapter.

SECTION 4. An emergency is declared for this act.

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## COMMITTEE REPORT

Madam President: The Senate Committee on Rules and Legislative Procedure, to which was referred Senate Bill No. 420, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill be reassigned to the Senate Committee on Utilities and Technology.

(Reference is to SB 420 as introduced.)

LONG, Chairperson

## COMMITTEE REPORT

Madam President: The Senate Committee on Utilities and Technology, to which was referred Senate Bill No. 420, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 5-28-2-6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 6. For purposes of IC 5-28-17, "small business" means a business entity that satisfies the following requirements:**

**(1) On at least fifty percent (50%) of the working days of the business entity occurring during the preceding calendar year, the business entity employed at least two (2) but not more than one hundred (100) employees.**

**(2) The majority of the employees of the business entity work in Indiana.**

SECTION 2. IC 5-28-5-6.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 6.5. The board, in consultation with the office of energy and defense development, shall establish the office of small business energy advancement to carry out the corporation's duties**

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**under IC 5-28-17. The office of energy and defense development shall provide staff support to the office of small business energy advancement.**

SECTION 3. IC 5-28-17-1, AS ADDED BY P.L.4-2005, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) The corporation shall do the following to carry out this chapter:

(1) Contribute to the strengthening of the economy of Indiana by encouraging the organization and development of new business enterprises, including technologically oriented enterprises.

(2) Submit an annual report to the governor and to the general assembly not later than November 1 of each year. The annual report must:

(A) include detailed information on the structure, operation, and financial status of the corporation; and

(B) be in an electronic format under IC 5-14-6.

The board shall conduct an annual public hearing to receive comment from interested parties regarding the annual report, and notice of the hearing shall be given at least fourteen (14) days before the hearing in accordance with IC 5-14-1.5-5(b).

(3) Approve and administer loans from the microenterprise partnership program fund established by IC 5-28-18.

(4) Conduct activities for nontraditional entrepreneurs under IC 5-28-18.

(5) Establish and administer the small and minority business financial assistance program under IC 5-28-20.

(6) Establish and administer the microenterprise partnership program under IC 5-28-19.

**(7) Assist small businesses in obtaining state and federal energy tax incentives.**

**(8) Establish a statewide network of public, private, and educational resources to inform small businesses of the state and federal programs under which they may obtain financial assistance or realize reduced costs.**

(b) The corporation may do the following to carry out this chapter:

(1) Receive money from any source, enter into contracts, and expend money for any activities appropriate to its purpose.

(2) Do all other things necessary or incidental to carrying out the corporation's functions under this chapter.

(3) Establish programs to identify entrepreneurs with marketable ideas and to support the organization and development of new business enterprises, including technologically oriented

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enterprises.

(4) Conduct conferences and seminars to provide entrepreneurs with access to individuals and organizations with specialized expertise.

(5) Establish a statewide network of public, private, and educational resources to assist the organization and development of new enterprises.

(6) Operate a small business assistance center to provide small businesses, including minority owned businesses and businesses owned by women, with access to managerial and technical expertise and to provide assistance in resolving problems encountered by small businesses.

(7) Cooperate with public and private entities, including the Indiana Small Business Development Center Network and the federal government marketing program, in exercising the powers listed in this subsection.

(8) Establish and administer the small and minority business financial assistance program under IC 5-28-20.

(9) Approve and administer loans from the microenterprise partnership program fund established by IC 5-28-18.

(10) Coordinate state funded programs that assist the organization and development of new enterprises.

**(11) Consult and cooperate with the office of energy and defense development in the establishment of the office of small business energy advancement under IC 5-28-5-6.5.**

SECTION 4. IC 5-28-17-3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 3. The office of small business advancement established under IC 5-28-5-6.5 shall provide free access to the office's services through:**

**(1) a toll free telephone number; and**

**(2) an Internet web page maintained on the web site of the office of energy and defense development."**

Page 2, line 8, delete "December 31, 2016." and insert "**The date rates are placed in effect after a general rate proceeding that recognizes an investment by a public utility in the public utility's rate base.**".

Page 2, delete lines 9 through 11.

Page 2, delete line 18.

Page 2, line 41, delete "operated" and insert "**operates**".

Page 3, line 8, after "costs" insert "**, by means of a periodic rate adjustment mechanism,**".

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Page 3, line 21, delete "A schedule determined under".  
 Page 3, delete line 22.  
 Page 4, delete lines 31 through 42.  
 Delete page 5.  
 Page 6, delete lines 36 through 42.  
 Page 7, delete line 32 through 42.  
 Page 8, delete lines 1 through 13.  
 Page 8, line 22, delete "costs, regardless" and insert "**costs.**".  
 Page 8, delete lines 23 through 24.  
 Page 8, delete lines 37 through 42.  
 Page 9, delete lines 1 through 26.  
 Page 11, delete lines 24 through 42.  
 Page 12, delete lines 1 through 14.  
 Page 12, line 29, delete "refers to a regional transmission organization" and insert "**has the meaning set forth in IC 8-1-8.4-6.**".  
 Page 12, delete lines 30 through 32.  
 Page 12, line 40, after "sources" insert ", **technologies,**".  
 Page 13, line 5, delete "IC 8-1-8.8-2)." and insert "**IC 8-1-8.8-2), including plant efficiency measures.**".  
 Page 13, line 7, delete "producing steam" and insert ".".  
 Page 13, delete line 8, begin a new line block indented and insert:  
     **"(8) Noncarbon dioxide emitting or low carbon dioxide emitting electricity generating technologies placed in service after June 30, 2009.**  
     **(9) Hydropower.**  
     **(10) Demand side management or energy efficiency programs that:**  
         **(A) reduce electricity consumption; or**  
         **(B) implement load management or demand response technologies that shift a customer's electric load from periods of higher demand to periods of lower demand.**  
     **(11) Combined heat and power systems that:**  
         **(A) use natural gas or renewable energy resources as feedstock; and**  
         **(B) achieve at least seventy percent (70%) overall efficiency."**  
 Page 13, line 22, after "IC 8-1-2-23.1" delete "," and insert "**or**".  
 Page 13, line 22, delete "or section 9 of this chapter,".  
 Page 14, line 12, after "RECs" insert "**or carbon offset equivalents**".  
 Page 14, line 15, after "4(a)(5)" insert ", **4(a)(8), 4(a)(10), or 4(a)(11)**".

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Page 14, line 24, delete "resources in an" and insert "**resources**";.

Page 14, delete line 25.

Page 14, line 32, after "IC 8-1-2-23.1(d)" delete "," and insert "**or**".

Page 14, line 32, delete "or section 9(c) of this chapter,".

Page 15, line 6, delete "shall" and insert "**may**".

Page 15, line 7, delete "on the electricity supplier." and insert "**in an amount equal to the product of:**

**(1) the number of megawatt hours of electricity that the electricity supplier was required to, but failed to, supply under section 5(c) of this chapter; multiplied by**

**(2) twenty dollars (\$20)."**

Page 15, line 7, beginning with "In" begin a new line blocked left.

Page 15, line 36, after "5(b)" insert "**or 5(c)**".

Page 15, line 39, delete "or".

Page 15, between lines 41 and 42, begin a new line block indented and insert:

**"(3) purchasing RECs or carbon offset equivalents; or**

**(4) complying with federal renewable energy resource portfolio requirements;".**

Page 16, delete lines 1 through 7.

Page 16, line 8, delete "(c)" and insert "**(b)**".

Page 16, line 13, after "5(b)" insert "**or 5(c)**".

Page 16, between lines 13 and 14, begin a new paragraph and insert:

**"(c) If the commission revokes a periodic rate adjustment mechanism allowed to an electricity supplier under subsection (b), the electricity supplier may request, in the electricity supplier's next general rate case, recovery of reasonable and necessary costs incurred by the electricity supplier in attempting to comply with section 5(b) or 5(c) of this chapter, as applicable."**

Page 16, line 19, delete "(1)" and insert "**and five-tenths (1.5)**".

Page 16, line 25, delete "in the" and insert "**that is directly interconnected to**".

Page 16, line 26, delete "territory of".

Page 16, line 26, delete "organization;" and insert "**organization whose members include an electricity supplier;**".

Page 16, line 28, delete "five-tenths (0.5)" and insert "**one (1)**".

Page 16, delete lines 29 through 33.

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Page 16, line 34, delete "(c)" and insert "(b)".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 420 as printed February 17, 2009.)

MERRITT, Chairperson

Committee Vote: Yeas 8, Nays 3.

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### SENATE MOTION

Madam President: I move that Senate Bill 420 be amended to read as follows:

Page 4, line 3, after "proceeding" insert "**depreciation and**".

Page 4, line 3, after "return" insert ",".

Page 4, line 3, after "exceed" insert "**a total of**".

Page 4, line 4, after "(\$50,000,000)" insert ",".

Page 4, between lines 22 and 23, begin a new paragraph and insert:

**"(e) This section expires December 31, 2020, unless reauthorized by the general assembly before December 31, 2020. However, a return accrued under this section before January 1, 2021, expires on the appropriate date determined under subsection (c)(2) even if the expiration date occurs after December 31, 2020."**

Page 5, line 36, after "needed." insert "**The commission may not review an application submitted after December 31, 2020, unless authorized to do so by the general assembly before January 1, 2021."**

Page 6, between lines 11 and 12, begin a new line blocked left and insert:

**"However, an electricity supplier may seek approval from the commission at the electricity supplier's next general rate proceeding to include in the electricity supplier's basic rates the recoverable costs sought in an application approved under this subsection."**

Page 6, between lines 28 and 29, begin a new paragraph and insert:

**"(i) A financial incentive that the commission approves before January 1, 2021, or that an electricity supplier applies for before January 1, 2021, and that is subsequently approved, expires on the earlier of the following dates:**

**(1) The date on which the electricity supplier accrues the full recovery amount authorized by the commission.**



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**(2) The date specified by the commission in its approval of the financial incentive."**

Page 8, line 6, after "facility" insert **", including transmission lines and equipment described in subsection (b),"**.

Page 8, line 6, after "is" insert **":**

**(1) installed or constructed at the site of a facility that supplies electricity to Indiana retail customers as of July 1, 2009; and (2)"**.

Page 8, line 7, delete "(1)", begin a new line double block indented and insert:

**"(A)"**.

Page 8, line 9, delete "(2)", begin a new line double block indented and insert:

**"(B)"**.

Page 8, between lines 16 and 17, begin a new paragraph and insert:  
**"SECTION 10. IC 8-1-8.8-8, AS AMENDED BY P.L.175-2007, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. (a) As used in this chapter, "new energy production or generating facility" refers to a generation or coal gasification facility that satisfies all of the following:**

**(1) The facility produces energy primarily from coal or gases from coal from the geological formation known as the Illinois Basin.**

**(2) The facility is a:**

**(A) newly constructed or newly repowered energy ~~generation~~ plant; or**

**(B) newly constructed ~~generation~~ capacity expansion at an existing ~~facility~~, **plant;****

**dedicated primarily to serving Indiana retail customers.**

**(3) The repowering, construction, or expansion of the facility was begun by an Indiana utility after July 1, 2002.**

**(4) Except for a facility that is a clean coal and energy project under section 2(2) of this chapter, the facility has an aggregate rated electric generating capacity of at least one hundred (100) megawatts for all units at one (1) site or a generating capacity of at least four hundred thousand (400,000) pounds per hour of steam.**

**(b) The term includes the transmission lines, gas transportation facilities, and associated equipment employed specifically to serve a new energy generating or coal gasification facility."**

Page 11, line 18, delete "." and insert **"or fuel for the production of electricity."**

Page 11, line 19, delete "." and insert **"or coal mines."**

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Page 11, between lines 40 and 41, begin a new line block indented and insert:

**"(12) Geothermal hot water district heating systems.**

**(13) Electricity generated through net metering that is regulated under rules adopted by the commission or other Indiana law.**

**(14) Energy storage facilities.**

**(15) A renewable energy resource listed in IC 8-1-8.8-10 to the extent the renewable energy resource is not already described in this subsection."**

Page 13, between lines 17 and 18, begin a new paragraph and insert:

**"(g) The commission shall consider the costs incurred by an electricity supplier in complying with subsection (b) or (c), as applicable, as consistent with the requirements of IC 8-1-2-42(d)(1) when ruling on a fuel cost charge requested by the electricity supplier under IC 8-1-2-42(d)."**

Page 13, line 42, delete "twenty" and insert "**twenty-five**".

Page 13, line 42, delete "(\$20)." and insert "**(\$25).**".

Re-number all SECTIONS consecutively.

(Reference is to SB 420 as printed February 20, 2009.)

HERSHMAN

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#### SENATE MOTION

Madam president: I move that Engrossed Senate Bill 420 be amended to read as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning state energy policy.

(Reference is to ESB 420 as reprinted February 24, 2009.)

HERSHMAN

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## COMMITTEE REPORT

Mr. Speaker: Your Committee on Commerce, Energy, Technology and Utilities, to which was referred Senate Bill 420, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, delete lines 1 through 17.

Delete page 2.

Page 3, delete lines 1 through 31.

Page 3, line 34, after "(a)" insert **"As used in this section, "biofuels project" means an addition to or the construction, extension, or improvement of a public utility's plant or equipment to provide electric or gas service to a customer that produces biodiesel, ethanol, or any other biofuel.**

**(b)".**

Page 3, line 35, delete "IC 8-1-37-5(b)." and insert **"IC 8-1-37-5(b) and enters into an agreement described in subsection (e).**

**(c) For purposes of section 23 of this chapter, a biofuels project is in fact used and useful in the public service."**

Page 3, delete lines 36 through 40.

Page 3, line 41, delete "(c)" and insert **"(d)".**

Page 3, line 42, after "investment" insert **"in a biofuels project."**

Page 4, delete line 1.

Page 4, line 2, delete "described in subsection (b).".

Run in page 3, line 42, through page 4, line 2.

Page 4, line 4, delete "fifty million dollars (\$50,000,000)," and insert **"ten million dollars (\$10,000,000),"**

Page 4, line 5, after "investment" insert **", as allocated to the public utility under an agreement described in subsection (e),"**

Page 4, between lines 17 and 18, begin a new paragraph and insert:

**"(e) To be eligible for a cost recovery under this section, a public utility shall enter into an agreement with the customer that is the beneficiary of electric or gas service provided under a biofuels project. The agreement must allocate the cost of the biofuels project as follows:**

**(1) Fifty percent (50%) to the public utility.**

**(2) Fifty percent (50%) to the customer."**

Page 4, line 18, delete "(d)" and insert **"(f)".**

Page 4, line 18, delete "(c)" and insert **"(d)".**

Page 4, line 24, delete "(e)" and insert **"(g)".**

Page 4, line 25, delete "However, a".

Page 4, delete lines 26 through 28.

Page 4, line 29, delete "IC 8-1-8.4" and insert **"IC 8-1-8.2".**

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Page 4, line 32, delete "8.4." and insert **"8.2."**.

Page 5, line 1, after "facilities." insert **"The term includes an electric line facilities project that provides electric service to a customer that generates electricity from renewable energy resources."**.

Page 5, line 18, after "recovery of" insert **"reasonable and necessary"**.

Page 5, line 19, after "supplier" insert **"that are allocated to Indiana retail customers in proportion to the retail electric service directly provided to Indiana retail customers"**.

Page 5, line 21, after "generated" insert **"by a customer"**.

Page 5, line 23, after "recovery of" insert **"reasonable and necessary"**.

Page 5, between lines 27 and 28, begin a new line blocked left and insert:

**"The commission may require an electricity supplier that seeks to receive a financial incentive described in subdivision (1) to enter into an agreement with the customer that is the beneficiary of electric service provided by the electric line facilities project. The agreement must allocate the cost of the electric line facilities project equally between the electricity supplier and the customer."**

Page 5, line 33, delete "(h)," and insert **"(g),"**.

Page 6, line 5, delete "8" and insert **"9"**.

Page 6, line 10, delete "subsections (g) and (h)," and insert **"subsection (g),"**.

Page 6, delete lines 28 through 34.

Page 6, line 35, delete "(h)" and insert **"(g)"**.

Page 6, line 42, delete "(i)" and insert **"(h)"**.

Page 7, delete lines 14 through 42.

Delete pages 8 through 10.

Page 11, delete lines 1 through 41.

Page 12, line 14, delete "IC 8-1-8.4-6." and insert **"IC 8-1-8.2-6."**

Page 12, delete lines 15 through 42, begin a new paragraph and insert:

**"Sec. 3. (a) As used in this chapter, "renewable energy credit", or "REC", means a tradable compliance instrument that is:**

**(1) associated with one (1) megawatt hour of electricity generated from a renewable energy resource described in section 4(a) of this chapter; and**

**(2) tracked in an electronic tracking system approved by the commission.**

**(b) The term does not include an instrument or the associated**

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electricity that is:

- (1) retired; or
- (2) otherwise claimed for purposes of complying with any voluntary contract or renewable energy requirement in another jurisdiction.

**Sec. 4. (a) As used in this chapter, "renewable energy resources" includes the following sources or processes:**

- (1) Methane systems that convert waste products, including animal, food, and plant waste, into electricity.
- (2) Methane recovered from landfills.
- (3) Wind, including wind energy battery storage systems.
- (4) Solar photovoltaic cells and panels.
- (5) Clean coal technology.
- (6) Dedicated crops grown for energy production. An invasive species of plant (as defined by Indiana law) does not qualify as a crop under this subdivision.
- (7) Energy from waste to energy facilities.
- (8) An electric generating facility that uses any of the sources or processes described in subdivisions (1) through (7).
- (9) Hydropower that is:
  - (A) initially derived after June 30, 2009; and
  - (B) from dams in existence on July 1, 2009."

Page 13, delete lines 1 through 14.

Page 13, line 28, delete "IC 8-1-2-23.1 or IC 8-1-8.4-9," and insert **"IC 8-1-2-23.1, IC 8-1-8.2-9, or section 9 of this chapter,"**.

Page 13, between lines 34 and 35, begin a new line block indented and insert:

**"(2) Not later than the calendar year ending December 31, 2012, at least four and two-tenths percent (4.2%)."**

Page 13, line 35, delete "(2)" and insert "(3)".

Page 13, line 37, delete "(3)" and insert "(4)".

Page 13, line 39, delete "(4)" and insert "(5)".

Page 14, line 17, delete "may own or purchase RECs or" and insert **"complies with subsection (b) or (c) by demonstrating to the commission that an equivalent volume of RECs has been retired in an eligible electronic tracking system."**

Page 14, delete lines 18 through 19.

Page 14, line 21, delete "4(a)(5), 4(a)(8), 4(a)(10), or 4(a)(11)" and insert **"4(a)(5)"**.

Page 14, line 30, delete "resources;" and insert **"resources in an Indiana facility;"**.

Page 14, delete lines 34 through 38.

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Page 14, line 42, delete "IC 8-1-2-23.1(d) or IC 8-1-8.4-11," and insert **"IC 8-1-2-23.1(d), IC 8-1-8.2-11, or section 9(c) of this chapter,"**.

Page 15, line 15, delete "may" and insert **"shall"**.

Page 16, line 14, delete "RECs or carbon offset equivalents;" and insert **"RECs, but not the associated power, produced from a renewable energy resource;"**.

Page 16, line 18, after "(b)" insert **"Except as provided in subsection (c), the recovery of costs by a periodic rate adjustment mechanism under subsection (a) expires on the earlier of the following dates:**

**(1) The date on which the electricity supplier recovers under the period rate adjustment mechanism all costs allowed under subsection (a).**

**(2) December 31, 2016.**

**(c)".**

Page 16, delete lines 24 through 29.

Page 16, line 35, delete "one and five-tenths (1.5)" and insert **"one (1)".**

Page 16, line 37, delete "or".

Page 16, line 38, delete "4(a)(2)".

Page 17, line 4, delete "one (1)" and insert **"five-tenths (0.5)".**

Page 17, line 5, after "(b)" insert **"Electricity generated by any source outside the territory of a regional transmission organization may not be considered for purposes of calculating an REC to determine an electricity supplier's compliance with section 5(b) or 5(c) of this chapter, as applicable.**

**(c)".**

Re-number all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 420 as reprinted February 24, 2009.)

MOSES, Chair

Committee Vote: yeas 11, nays 0.

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